

**Statement by Gillian Dell, Transparency International
UNCAC Implementation Review Group Briefing for NGOs
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Honourable Chair, distinguished delegates and esteemed UNODC colleagues

Good afternoon.

My name is Gillian Dell and I am speaking on behalf of Transparency International. It is a pleasure to be back in person at this UNCAC meeting in Vienna. We would like to express our thanks to UNODC for its informative report this afternoon, which provides highlights for NGOs about the activities and discussions underway in UNCAC subsidiary bodies here in Vienna.

While this is much appreciated, it is no substitute for allowing NGOs to attend as observers meetings of subsidiary bodies of the UNCAC Conference of States Parties (CoSP). The Marrakech compromise on this subject ([UNCAC Resolution 4/6](#)) is ten years old this year – it was intended as a temporary trust-building exercise, not a permanent feature. We welcome the [G7 UNGASS statement](#) committing to promoting inclusion of civil society as observers in UNCAC subsidiary bodies and we urge other UNCAC States parties to join this initiative. We ask you - what does it say about UNCAC and the UN that it is possible to have a blanket exclusion of stakeholders from observing UN anti-corruption discussions that have no confidential content?

UNCAC review process

We have a few observations about the UNCAC review process. [UNODC's reports](#) provide us with some good news and some bad news. We congratulate States parties and UNODC on getting close to completion of the 1st review cycle. In particular, we commend the 87 of 161 countries that have voluntarily published their full review reports– that means only a little over 70 more countries would need to agree to publish the full reports to reach the appropriate transparency (publication of the full report is conditioned on country agreement). It is hard to see how non-publication of the full report can be reconciled with the recognition in the Convention and the international community of the importance of transparency for anti-corruption efforts.

In the 2nd cycle, it is also encouraging that 127 self-assessments have been submitted. The less encouraging news is that only 51 executive summaries and 29 country review reports have been completed at a stage when according to the original plan, the 2nd cycle of reviews should have been completed. The process is presently proceeding at a rate of 10 review reports completed per year and it seems almost certain that the process will not be completed by June 2024, the current extended deadline.

By 2024, the early first cycle reviews will be nearly 15 years old. This means there are good reasons for already initiating now a pilot follow-up review process for the first cycle on criminalisation and enforcement provisions. In designing such a follow-

up process, there is valuable experience to draw on in the follow-up review processes for other anti-corruption conventions. A follow-up process could cover not only first cycle recommendations but also look at whether country anti-corruption systems are in line with the UNGASS declaration commitments.

Substantive areas

We also have a few observations about some of your substantive discussions.

A more detailed review would be useful of Article 12 provisions on grants of subsidies and licenses. We note that [one of UNODC's reports](#) found that only limited information had been provided regarding the public oversight of the use of subsidies by private entities and licences granted by public authorities for commercial activities (relating to art. 12 (2) (d) of the Convention). It was recommended to promote transparency in this area. This has become even more relevant in the context of the Covid pandemic.

We also read with interest UNODC's [summary](#) of the Implementation Review Group meeting panel and discussion in June on the liability of legal persons and also on sanctions. We believe that these are areas that would also merit in-depth study, including the issue of parent company liability for subsidiaries. For example, we note that the French law that was reported on in the meeting also contains interesting provisions on parent company liability. An in-depth review of liability of legal persons could also include discussion of company liability for human rights violations, in line with discussions underway at the United Nations in Geneva on the UN Guiding Principles on Business and Human Rights. In that connection, joint discussions with the UN Working Group on Business and Human Rights could be very fruitful.

Company liability links to another substantive issue that we would like to raise, namely the need to link discussions of UNCAC anti-corruption measures with discussions of provisions of the UN Convention Against Transnational Organized Crime (UNTOC). Transnational networked corruption is generally a form of transnational organized crime and yet specific provisions on the *transnational, organized aspect of corruption* appear in a different convention - the UNTOC – and those provisions are not addressed in UNCAC discussions.

Taking the issue of liability of legal persons, UNTOC Article 10 requires states to establish such liability for participation in serious crimes involving an organized criminal group etc. (and for the offences established under that convention articles 5,6, 8 and 23.) UNTOC Article 31 contains special measures for preventing misuse of legal persons by organized criminal groups. These provisions are very relevant for transnational networked corruption and the role of companies and financial institutions but they are not addressed in UNCAC discussions or reviews.

We have a fragmentation here that is detrimental to efficient and effective processes for tackling corruption. We urge creation of a joint body by the United Nations Crime Commission to connect the discussions under the two Conventions.

Follow-up to UNGASS declaration

One last area we would like to discuss is the [Political Declaration](#) of the UN General Assembly special session against corruption (UNGASS) in June 2021. We commend UN member states for a number of advances in the declaration, which we understand were hard-won. But it goes without saying that the declaration is only worth the effort if there is follow-up and the UNCAC CoSP has been charged with following up and building on the declaration.

We note that the current meeting of the Working Group on Asset Recovery is already enabling follow-up through UNODC's commendable reports on [non-conviction based confiscation](#) and [confiscation in the context of non-trial resolutions](#) prepared for the working group's current meeting this week. We hope those reports will be of use to states in following up on the commitments in the UNGASS declaration and the Convention.

But it is also crucial that the UNCAC Conference of States Parties design a follow-up process for the declaration. There are a number of ways this could be done, ideally without adding too much to the burden on countries and UNODC. It is essential that it be done.